

Procurement Division: Small Business Legislative Summary June 8th, 2016

AB 2270, Bonta. California Infrastructure and Economic Development Bank: surety bond program.

Under the Small Business Financial Assistance Act of 2013, the California Infrastructure and Economic Development Bank, within the Governor's Office of Business and Economic Development, administers specific programs relating to small business, either administered directly by the bank or under contract with small business financial development corporations. The act authorizes bank programs to offer surety bond guarantees. The act prohibits a corporation from guaranteeing any loan unless and until it makes specified determinations, including that there is a low probability that the surety bond would be granted by a financial institution or financial company under reasonable terms or conditions, and the beneficiary has demonstrated a reasonable prospect of successful completion of the project.

This bill would modify that prohibition to refer to a surety bond instead of a loan and would add private bonding companies to those entities considered when calculating the probability that a surety bond would be granted.

AB 2358, Bigelow. Public contracts: small business contracts.

The Small Business Procurement and Contract Act permits a state agency to award a contract for goods, services, or information technology with an estimated value of between \$5,000 and \$250,000 to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, without complying with specified competitive bidding requirements.

This bill would increase the upper limit of the value of those contracts to \$300,000.

AB 2900, Committee on Jobs, Economic Development, and the Economy. Small business technical assistance centers.

Existing law, the Small Business Procurement and Contract Act, requires the Director of General Services and other state agencies that enter into contracts for the provision of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses in these contracts, to provide for small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified.

This bill for contracts awarded on or after September 1, 2017, and before December 31, 2021, would require an awarding department, as defined, to report to the Legislature by a specified date following any year that state funds are awarded to a federal small business technical assistance center, as defined. The bill would require a federal small business technical assistance center, as a condition of receiving state funds, to report certain information to the awarding department, including, but not limited to, the total number of businesses assisted.

Procurement Division: Small Business Legislative Summary June 8th, 2016

SB 1176, as amended, Galgiani. Small Business Procurement and Contract Act: business size.

The Small Business Procurement and Contract Act requires the Director of General Services and the heads of other state agencies that enter into contracts for the acquisition of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses and microbusinesses in these contracts, to provide for a small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified. Existing law defines a “small business” for these purposes as, among other things, an independently owned and operated business that is not dominant in its field of operation that has average annual gross receipts of \$10 million, as may be adjusted to reflect changes in the California Consumer Price Index, or less over the previous 3 years. Existing law defines a “microbusiness” as a small business which, together with affiliates, has average annual gross receipts of \$2.5 million, as may be adjusted to reflect changes in the California Consumer Price Index, or less over the previous 3 years. Existing law requires the director to conduct a biennial review of those average annual gross receipt levels and authorizes the director to adjust the average annual gross receipts threshold to reflect changes in the California Consumer Price Index for all items. Existing law requires a contractor requesting a small business or microbusiness preference to do so under penalty of perjury.

This bill would revise those definitions by increasing the dollar amount threshold for a small business to \$15 million and for a microbusiness to \$5 million and would require those dollar amounts to be adjusted to reflect changes in the California Consumer Price Index biennially. The bill would further revise the definition of small business by specifying that, for the purposes of public works contracts, small business means a businesses with 200 or fewer employees and average annual gross receipts of \$25 million or less. The bill would allow directors of the department and other state agencies to count contractors that would be considered a small business or microbusiness under the changes made by this bill for the year this bill is enacted if the directors are unable to make the small business participation goals under the existing laws. The bill would allow more contractors to qualify as a small business or microbusiness, thus expanding the group of contractors authorized to request a preference filed under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program.

SB 1219, Hancock. Small Business Procurement and Contract Act: employment social enterprises.

Existing law, the Small Business Procurement and Contract Act, grants a specified preference for small businesses and microbusinesses in the award of a contract for goods, services, or information technology to the state and in the construction of state facilities. Existing law defines small business and microbusiness for these and other purposes. Existing law permits a state agency and the California State University to award specified types of contracts with a value of between \$5,000 and \$250,000 to a certified small business, including a microbusiness and a disabled veteran business enterprise, without

Procurement Division: Small Business Legislative Summary June 8th, 2016

complying with certain competitive bidding requirements, provided the agency obtains price quotations from 2 or more small businesses, including microbusinesses, or 2 or more disabled veteran business enterprises. Existing law establishes the Office of Small Business and Disabled Veteran Business Enterprise Services and prescribes duties for the office, which include maintaining a bidders list of small businesses and disabled veteran businesses and noting which small businesses also qualify as microbusinesses. Existing law prescribes penalties for a small business or microbusiness that provides incorrect information or withholds information that leads to its incorrect classification as such an entity and is awarded a contract because of that classification.

This bill would, on and after July 1, 2017, grant an employment social enterprise the preference and status that is provided to a microbusiness for purposes of the provisions described above. The bill would define an employment social enterprise as a for-profit business or nonprofit business that earns a majority of its enterprise revenue from the production of goods and services, and that demonstrates evidence in its articles of incorporation or bylaws of its mission to provide employment with on-the-job and life skills training to a direct labor force that is comprised of a majority of individuals who face significant barriers to employment. The bill would define “individuals who face significant barriers to employment” to include individuals who recently have been released from a federal, state, or local correctional facility or who have a criminal record or history, individuals who are, or have been, homeless, and youth and young adults between 16 and 24 years of age, inclusive, who lack a high school diploma, are not enrolled in school, and are unemployed.

Bills Not Moving Forward

AB 2905, Committee on Jobs, Economic Development, and the Economy. Public contracting: small business goal.

Existing law requires the Director of the Department of General Services and the directors of other state agencies to establish goals for the participation of small businesses, including microbusinesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

This bill would state the intent of the Legislature to set and implement a 25% small business participation goal for state procurement and contracting.

Existing law requires each state agency that was awarded any contract financed with the proceeds of the infrastructure-related bond acts of 2006 in the previous fiscal year to report to the Director of General Services statistics comparing the small business and microbusiness participation dollars for contracts funded by these bonds to the total contract dollars for contracts funded by the bonds.

Procurement Division: Small Business Legislative Summary June 8th, 2016

This bill would require that the goals established by the agency director for the participation of small businesses, as described above, be reported to the director in that report.

Existing law requires the department to make available a report on contracting that contains information on the level of participation by small businesses in state contracting.

The bill would also require the goals established by the director for the participation of small businesses, as described above, to be included in that report. The bill would also require, to the extent feasible, beginning with the report issued in 2018 covering contracting activity in the 2017–18 fiscal year, that specified information in the report about the participation of small businesses be provided by prime contractor and subcontractor, separately. The bill would define subcontractor and prime contractor for purposes of these provisions. The bill would also revise the categories, defined by the number of employees, by which a statistical summary relating to small and microbusinesses is required to be reported, and, to the extent feasible, beginning with the report issued in 2018 covering contracting activity in the 2017–18 fiscal year, the number of contracts awarded by the department in those categories.